

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

CARMEN E.F. VASQUEZ, <i>et al.</i> ,	:	
Plaintiffs,	:	
	:	
-vs-	:	Civil No. 3:01cv955 (PCD)
	:	
SUMMIT WOMEN’S CENTER,INC.,	:	
<i>et al.</i> ,	:	
Defendants.	:	

RULING

Presently before the court in this matter are seven motions, including plaintiffs’ motion for leave to file an amended complaint, a joint motion to extend discovery deadlines, defendants’ motion to quash subpoenas, defendants’ motion for leave to depart from the Supplemental Order, plaintiffs’ motion for leave to depart from the Supplemental Order, and Defendants’ motion to expedite ruling on protective order. Plaintiffs’ motion for leave to file their amended complaint is granted, the joint motion to extend discovery deadlines is denied, and the remaining motions are denied as moot in light of the filing of the amended complaint and joinder of non-party defendants.

I. BACKGROUND

On August 3, 2001, in their FED. R. CIV. P. 26(f) report, the parties agreed that plaintiffs had until September 3, 2001 to join additional parties and until October 31, 2001 to amend the pleadings. On August 20, 2001, the proposed dates were adopted by the parties and a discovery deadline of December 3, 2001 was set. On August 31, 2001, plaintiffs moved

for leave to amend the complaint to add four non-party defendants and five counts.

II. MOTION FOR LEAVE TO AMEND COMPLAINT

Plaintiffs move for leave to file an amended complaint. The proposed amendment joins four defendants and adds five causes of action. Defendants argue that leave to file should be denied for resulting prejudice, futility and failure to join the new parties in a timely fashion.

“Leave to file an amended complaint ‘shall be freely given when justice so requires,’ FED. R. CIV. P. 15(a), and should not be denied unless there is evidence of undue delay, bad faith, undue prejudice to the non-movant, or futility.” *Milanese v. Rust-Oleum Corp.*, 244 F.3d 104, 110 (2d Cir. 2001).

Plaintiffs seek to join as defendants four employees of defendant Summit Women’s Center, two of whom already have been deposed as non-party witnesses. Defendants argue that allowing plaintiffs to depose as defendants the same non-party witnesses creates unnecessary expense and is thus prejudicial. Plaintiffs respond that they were unaware of the nature of the non-party witnesses’ involvement until after the depositions. Plaintiffs sought to add the four defendants less than one month after discovery began and within the agreed window for the addition of parties. Defendants’ argument that this causes them “undue prejudice,” *id.*, is without merit.

Defendants also argue that granting defendants leave to amend would be futile because evidence revealed during discovery contradicts plaintiffs’ proposed amendments. Specifically, defendants argue that plaintiffs’ amendments would fail under a summary judgment standard, *see Republic Nat’l Bank v. Hales*, 75 F. Supp. 2d 300, 308-09 (S.D.N.Y. 1999), and should

thus be denied. Defendants' claim is without merit.

The summary judgment standard, as applied in *Hayes*, is inapplicable to the present amended complaint. Such standard may be "appropriate where the parties have been afforded ample opportunity for discovery and are on reasonable notice that they will be called upon to demonstrate the existence of disputed, material fact(s)," *id.* at 309. In light of the December 3, 2001 discovery deadline, plaintiffs have ample time to conduct the discovery necessary to establish disputed, material facts and would not reasonably anticipate a motion for summary judgment at this time.

Defendants further argue that plaintiffs failed to join the additional defendants in a timely fashion. Specifically, "[t]he mere filing of a motion to amend does not relieve a party from filing a motion to join new parties pursuant to [FED. R. CIV. P.] 21." There is no mandate requiring separate motions for joinder and for leave to amend a complaint. *See Nelson v. Adams USA, Inc.*, 529 U.S. 460, 465-66, 120 S. Ct. 1579, 146 L. Ed. 2d 530 (2000). Plaintiffs' joinder of the additional parties therefore was timely filed when they moved for leave to file the amended complaint.

Having found the defendants' opposition to the amended complaint without merit, plaintiffs' motion for leave to file an amended complaint is granted.

III. MOTION TO EXTEND DISCOVERY DEADLINE

All parties request a six-month extension of the December 3, 2001 discovery deadline, claiming that the amended complaint, which adds four parties, two of whom have been deposed to some degree, justifies the extension. The necessity for an extension of this magnitude is not

apparent from the added counts or parties. The motion for a six-month extension is therefore denied.

IV. RULING ON DEFENDANTS' MOTION TO QUASH SUBPOENAS,
DEFENDANTS' MOTION FOR LEAVE TO DEPART FROM THE
SUPPLEMENTAL ORDER, DEFENDANTS' MOTION TO EXPEDITE RULING
ON MOTION FOR A PROTECTIVE ORDER, DEFENDANTS' MOTION FOR
LEAVE TO DEPART FROM THE SUPPLEMENTAL ORDER, AND
PLAINTIFFS' MOTION FOR LEAVE TO DEPART FROM THE
SUPPLEMENTAL ORDER

The ruling granting plaintiffs leave to file their amended complaint renders the above motions, involving the parties joined by the amended complaint, moot. They are therefore denied.

V. CONCLUSION

Plaintiffs' motion for leave to amend their complaint (Doc. 73) is **granted**, the joint motion to extend discovery deadlines (Doc. 80) is **denied**, defendants' motion to quash subpoenas (Doc. 65) is **denied**, defendants' motion for leave to depart from the Supplemental Order (Doc. 70) is **denied**, defendants' motion to expedite ruling on protective order (Doc. 71) is **denied**, defendants' motion for leave to depart from the Supplemental Order (Doc. 72) is **denied**, and plaintiffs' motion for leave to depart from the Supplemental Order (Doc. 81) is **denied**.

SO ORDERED.

Dated at New Haven, Connecticut, October ___, 2001.

Peter C. Dorsey
Senior United States District Judge